

106TH CONGRESS  
1ST SESSION

# H. R. 2045

To amend title I of the Employee Retirement Income Security Act of 1974 to provide to participants and beneficiaries of group health plans access to emergency medical care.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 1999

Mr. TOOMEY introduced the following bill; which was referred to the  
Committee on Education and the Workforce

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## A BILL

To amend title I of the Employee Retirement Income Security Act of 1974 to provide to participants and beneficiaries of group health plans access to emergency medical care.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Patient Right to Emer-  
5       gency Medical Care Act of 1999”.

6       **SEC. 2. PATIENT ACCESS TO EMERGENCY MEDICAL CARE.**

7       (a) IN GENERAL.—Subpart B of part 7 of subtitle  
8       B of title I of the Employee Retirement Income Security

1 Act of 1974 is amended by adding at the end the following  
2 new section:

3 **“SEC. 714. PATIENT ACCESS TO EMERGENCY MEDICAL**  
4 **CARE.**

5 “(a) IN GENERAL.—To the extent that a group  
6 health plan (or a health insurance issuer offering health  
7 insurance coverage in connection with the plan) provides  
8 for any benefits consisting of emergency medical care, ex-  
9 cept for items or services specifically excluded—

10 “(1) the plan or issuer shall provide benefits,  
11 without requiring preauthorization and without re-  
12 gard to otherwise applicable network limitations, for  
13 appropriate emergency medical screening examina-  
14 tions (within the capability of the emergency facility,  
15 including ancillary services routinely available to the  
16 emergency facility) to the extent that a prudent  
17 layperson, who possesses an average knowledge of  
18 health and medicine, would determine such examina-  
19 tions to be necessary in order to determine whether  
20 emergency medical care is required; and

21 “(2) the plan or issuer shall provide benefits for  
22 additional emergency medical services following an  
23 emergency medical screening examination (if deter-  
24 mined necessary under paragraph (1)) to the extent  
25 that a prudent emergency medical professional

1 would determine such additional emergency services  
2 to be necessary to avoid the consequences described  
3 in subsection (c).

4 “(b) UNIFORM COST-SHARING REQUIRED.—Nothing  
5 in this section shall be construed as preventing a group  
6 health plan or issuer from imposing any form of cost-shar-  
7 ing applicable to any participant or beneficiary (including  
8 coinsurance, copayments, deductibles, and any other  
9 charges) in relation to benefits described in subsection (a),  
10 if such form of cost-sharing is uniformly applied under  
11 such plan, with respect to similarly situated participants  
12 and beneficiaries, to all benefits consisting of emergency  
13 medical care provided to such similarly situated partici-  
14 pants and beneficiaries under the plan.

15 “(c) EMERGENCY MEDICAL CARE.—For purposes of  
16 this section, the term ‘emergency medical care’ means  
17 medical care in any case in which an appropriate physician  
18 has certified in writing (or as otherwise provided in regula-  
19 tions of the Secretary)—

20 “(1) that failure to immediately provide the  
21 care to the participant or beneficiary could reason-  
22 ably be expected to result in—

23 “(A) placing the health of such participant  
24 or beneficiary (or, with respect to such a partic-  
25 ipant or beneficiary who is a pregnant woman,

1 the health of the woman or her unborn child)  
 2 in serious jeopardy;

3 “(B) serious impairment to bodily func-  
 4 tions; or

5 “(C) serious dysfunction of any bodily  
 6 organ or part; or

7 “(2) that immediate provision of the care is  
 8 necessary because the participant or beneficiary has  
 9 made or is at serious risk of making an attempt to  
 10 harm himself or herself or another individual.”.

11 (b) CONFORMING AMENDMENT.—The table of con-  
 12 tents in section 1 of such Act is amended by adding at  
 13 the end of the items relating to subpart B of part 7 of  
 14 subtitle B of title I of such Act the following new item:

“Sec. 714. Patient access to emergency medical care.”.

15 **SEC. 3. EFFECTIVE DATE AND RELATED RULES.**

16 (a) IN GENERAL.—The amendments made by this  
 17 Act shall apply with respect to plan years beginning on  
 18 or after January 1 of the second calendar year following  
 19 the date of the enactment of this Act, except that the Sec-  
 20 retary of Labor may issue regulations before such date  
 21 under such amendments. The Secretary shall first issue  
 22 regulations necessary to carry out the amendments made  
 23 by this Act before the effective date thereof.

24 (b) LIMITATION ON ENFORCEMENT ACTIONS.—No  
 25 enforcement action shall be taken, pursuant to the amend-

1 ments made by this Act, against a group health plan or  
2 health insurance issuer with respect to a violation of a re-  
3 quirement imposed by such amendments before the date  
4 of issuance of regulations issued in connection with such  
5 requirement, if the plan or issuer has sought to comply  
6 in good faith with such requirement.

7 (c) SPECIAL RULE FOR COLLECTIVE BARGAINING  
8 AGREEMENTS.—In the case of a group health plan main-  
9 tained pursuant to one or more collective bargaining  
10 agreements between employee representatives and one or  
11 more employers ratified before the date of the enactment  
12 of this Act, the amendments made by this Act shall not  
13 apply with respect to plan years beginning before the later  
14 of—

15 (1) the date on which the last of the collective  
16 bargaining agreements relating to the plan termi-  
17 nates (determined without regard to any extension  
18 thereof agreed to after the date of the enactment of  
19 this Act); or

20 (2) January 1, 2002.

21 For purposes of this subsection, any plan amendment  
22 made pursuant to a collective bargaining agreement relat-  
23 ing to the plan which amends the plan solely to conform

- 1 to any requirement added by this Act shall not be treated
- 2 as a termination of such collective bargaining agreement.

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